

AMENDED IN SENATE MARCH 23, 2006

SENATE BILL

No. 1347

Introduced by Senator Machado

February 17, 2006

An act to amend Sections 25209.11, 25209.12, and 25209.13 of; ~~and to repeal Section 25209.16 of;~~ the Health and Safety Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1347, as amended, Machado. Water: solar evaporators.

Existing law requires the State Water Resources Control Board, on or before April 1, 2003, to adopt emergency regulations that establish minimum requirements for the design, construction, operation, and closure of a solar evaporator, as defined. ~~Existing law provides that the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare, and that those emergency regulations shall be filed with, but not repealed by, the Office of Administrative Law and shall remain in effect until revised by the state board.~~ Existing law prohibits a California regional water quality control board, on and after January 1, 2008, from issuing a written notice of authority to operate a solar evaporator, as specified.

This bill would delete the date reference for the state board's adoption of emergency regulations for a solar evaporator. ~~The bill would repeal the provisions directing the actions with respect to those emergency regulations that the Office of Administrative Law is required to, and prohibited from, taking, and requiring that the regulations remain in effect until revised by the state board.~~ The bill

would delete the prohibition of a California regional water quality control board, on and after January 1, 2008, issuing a written notice of authority to operate a solar evaporator, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25209.11 of the Health and Safety Code
2 is amended to read:
3 25209.11. For purposes of this article, the following terms
4 have the following meanings:
5 (a) “Agricultural drainage water” means surface drainage
6 water or percolated irrigation water that is collected by
7 subsurface drainage tiles placed beneath an agricultural field.
8 (b) “On-farm” means land within the boundaries of a property,
9 geographically contiguous properties, or a portion of the property
10 or properties, owned or under the control of a single owner or
11 operator, that is used for the commercial production of
12 agricultural commodities and that contains an integrated on-farm
13 drainage management system and a solar evaporator.
14 ~~(c)~~
15 (c) “Integrated on-farm drainage management system” means
16 a facility for the on-farm management of agricultural drainage
17 water that does all of the following:
18 (1) Reduces levels of salt and selenium in soil by the
19 application of irrigation water to agricultural fields.
20 (2) Collects agricultural drainage water from irrigated fields
21 and sequentially reuses that water to irrigate successive crops
22 until the volume of residual agricultural drainage water is
23 substantially decreased and its salt content significantly
24 increased.
25 (3) Discharges the residual agricultural drainage water to an
26 on-farm solar evaporator for evaporation and appropriate salt
27 management.
28 (4) Eliminates discharge of agricultural drainage water outside
29 the boundaries of the property or properties that produces the
30 agricultural drainage water and that is served by the integrated
31 on-farm drainage management system and the solar evaporator.

1 (d) “Regional board” means a California regional water
2 quality control board.

3 (e) “Solar evaporator” means an on-farm area of land and its
4 associated equipment that meets all of the following conditions:

5 (1) It is designed and operated to manage agricultural drainage
6 water discharged from the integrated on-farm drainage
7 management system.

8 (2) The area of the land that makes up the solar evaporator is
9 equal to, or less than, 2 percent of the area of the land that is
10 managed by the integrated on-farm drainage management
11 system.

12 (3) Agricultural drainage water from the integrated on-farm
13 drainage management system is discharged to the solar
14 evaporator by timed sprinklers or other equipment that allows the
15 discharge rate to be set and adjusted as necessary to avoid
16 standing water within the solar evaporator or, if a water
17 catchment basin is part of the solar evaporator, within that
18 portion of the solar evaporator that is outside the basin.

19 (4) The combination of the rate of discharge of agricultural
20 drainage water to the solar evaporator and subsurface tile
21 drainage under the solar evaporator provides adequate assurance
22 that constituents in the agricultural drainage water will not
23 migrate from the solar evaporator into the vadose zone or waters
24 of the state in concentrations that pollute or threaten to pollute
25 the waters of the state.

26 (f) “State board” means the State Water Resources Control
27 Board.

28 (g) “Water catchment basin” means an area within the
29 boundaries of a solar evaporator that is designated to receive and
30 hold any water that might otherwise be standing water within the
31 solar evaporator. The entire area of a water catchment basin shall
32 be permanently and continuously covered with netting, or
33 otherwise designed, constructed, and operated to prevent access
34 by avian wildlife to standing water within the basin.

35 SEC. 2. Section 25209.12 of the Health and Safety Code is
36 amended to read:

37 25209.12. The state board, in consultation, as necessary, with
38 other appropriate state agencies, shall adopt emergency
39 regulations that establish minimum requirements for the design,
40 construction, operation, and closure of a solar evaporator. The

1 regulations shall include, but are not limited to, requirements to
2 ensure all of the following:

3 (a) The operation of a solar evaporator does not result in a
4 discharge of on-farm agricultural drainage water outside the
5 boundaries of the area of land that makes up the solar evaporator.

6 (b) (1) The solar evaporator is designed, constructed, and
7 operated so that, under reasonably foreseeable operating
8 conditions, the discharge of agricultural water to the solar
9 evaporator does not result in standing water.

10 (2) Notwithstanding paragraph (1), a solar evaporator may be
11 designed, constructed, and operated to accommodate standing
12 water, if it includes a water catchment basin.

13 (3) The board may specify those conditions under which a
14 solar evaporator is required to include a water catchment basin to
15 prevent standing water that would otherwise occur within the
16 solar evaporator.

17 (c) Avian wildlife is adequately protected. In adopting
18 regulations pursuant to this subdivision, the state board shall do
19 the following:

20 (1) Consider and, to the extent feasible, incorporate best
21 management practices recommended or adopted by the United
22 States Fish and Wildlife Service.

23 (2) Establish guidelines for the authorized inspection of a solar
24 evaporator by the regional board pursuant to Section 25209.15.
25 The guidelines shall include technical advice developed in
26 consultation with the Department of Fish and Game and the
27 United States Fish and Wildlife Service that may be used by
28 regional board personnel to identify observed conditions relating
29 to the operation of a solar evaporator that indicate an
30 unreasonable threat to avian wildlife.

31 (d) Constituents in agricultural drainage water discharged to
32 the solar evaporator will not migrate from the solar evaporator
33 into the vadose zone or the waters of the state in concentrations
34 that pollute or threaten to pollute the waters of the state.

35 (e) Adequate groundwater monitoring and recordkeeping is
36 performed to ensure compliance with this article.

37 (f) Salt isolated in a solar evaporator shall be managed in
38 accordance with all applicable laws and shall eventually be
39 harvested and sold for commercial purposes, used for beneficial
40 purposes, or stored or disposed in a facility authorized to accept

1 that waste pursuant to this chapter or Division 30 (commencing
2 with Section 40000) of the Public Resources Code.

3 SEC. 3. Section 25209.13 of the Health and Safety Code is
4 amended to read:

5 25209.13. (a) A person who intends to operate a solar
6 evaporator shall, before installing the solar evaporator, file a
7 notice of intent with the regional board, using a form prepared by
8 the regional board. The form shall require the person to provide
9 information including, but not limited to, all of the following:

10 (1) The location of the solar evaporator.

11 (2) The design of the solar evaporator and the equipment that
12 will be used to operate it.

13 (3) The maximum anticipated rate at which agricultural
14 drainage water will be discharged to the solar evaporator.

15 (4) Plans for operating the solar evaporator in compliance with
16 this article.

17 (5) Groundwater monitoring data that are adequate to establish
18 baseline data for use in comparing subsequent data submitted by
19 the operator pursuant to this article.

20 (6) Weather data and a water balance analysis sufficient to
21 assess the likelihood of standing water occurring within the solar
22 evaporator.

23 (b) The regional board shall, within 30 calendar days after
24 receiving the notice submitted pursuant to subdivision (a), review
25 its contents, inspect, if necessary, the site where the proposed
26 solar evaporator will be located, and notify the operator of the
27 proposed solar evaporator whether it will comply with this
28 article. If the regional board determines that the proposed solar
29 evaporator will not comply with this article, the regional board
30 shall issue a written response to the applicant identifying the
31 reasons for noncompliance. If the regional board determines the
32 solar evaporator will comply with this article, the regional board
33 shall issue a written notice of plan compliance to the operator of
34 the proposed solar evaporator.

35 (c) A person who receives a written notice of plan compliance
36 pursuant to subdivision (b) shall, before operating the installed
37 solar evaporator, request the regional board to conduct a
38 compliance inspection of the solar evaporator. Within 30
39 calendar days after receiving a request, the regional board shall
40 inspect the solar evaporator and notify the operator whether it

1 complies with this article. If the regional board finds that the
2 solar evaporator does not comply with this article, the regional
3 board shall issue a written response to the applicant identifying
4 the reasons for noncompliance. Except as provided in subdivision
5 (e), if the regional board determines that the solar evaporator
6 complies with the requirements of this article, the regional board
7 shall issue a written notice of authority to operate to the operator
8 of the solar evaporator. The regional board may include in the
9 authority to operate any associated condition that the regional
10 board deems necessary to ensure compliance with the purposes
11 and requirements of this article.

12 (d) A person shall not commence the operation of a solar
13 evaporator unless the person receives a written notice of
14 authority to operate the solar evaporator pursuant to this section.

15 (e) The regional board shall review an authority to operate
16 issued by the regional board pursuant to this section every five
17 years. The regional board shall renew the authority to operate,
18 unless the regional board finds that the operator of the solar
19 evaporator has not demonstrated compliance with the
20 requirements of this article.

21 ~~SEC. 4. Section 25209.16 of the Health and Safety Code is~~
22 ~~repealed.~~